

Filed July 5, 2001

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE ex rel. THOMAS J.
ORLOFF, as District Attorney, etc., et al.

Plaintiff and Appellant,

v.

PACIFIC BELL et al.

Defendants and Respondents.

A089528

(Alameda County
Super. Ct. No. 816635-9)

**ORDER MODIFYING OPINION
AND DENYING REHEARING
[NO CHANGE IN JUDGMENT]**

BY THE COURT:

It is ordered that the opinion filed herein on June 5, 2001, be modified in the following particulars:

1. Change the first sentence of the first paragraph to read:

The district attorneys of three Northern California counties—Alameda, San Mateo, and Monterey—appeal from a judgment dismissing their suit for injunctive relief and civil penalties under the unfair competition law (UCL).

2. Delete the fifth and sixth sentences of the third paragraph (retaining fn. 3 at the end of the new sentence) under the heading designated BACKGROUND to read:

Both the ALJ's proposed ruling and a competing tentative ruling by Assigned Commission Neeper, recommending somewhat different remedies, were appealed to the full Commission, where they are pending review.

3. Insert the following new footnote number 11 at the end of the fourth sentence of the fifth paragraph under the heading designated III:

In his second proposed decision, Commissioner Neeper ruled the utility had violated section 2896, bringing his conclusion on this point in line with that of the ALJ. His revised decision, however, continued to reach other conclusions at odds with those of the ALJ.

Renumber the existing footnote 12 to footnote 13.

The above modification does not effect any change in the judgment.

The petition for rehearing is denied.

Dated: _____

_____ P.J.

Trial Court:	Alameda County Superior Court
Trial Judge:	Honorable Henry E. Needham, Jr.
Counsel for Appellant:	<p>Thomas J. Orloff, District Attorney Alameda County Harry B. Johnson, Senior Deputy District Attorney Julie A. Dunger, Deputy District Attorney</p> <p>James P. Fox, District Attorney San Mateo County John E. Wilson, Deputy District Attorney</p> <p>Dean Flipppo, District Attorney Monterey County Lydia Villarreal, Deputy District Attorney</p>
Counsel for Respondent Pacific Bell:	<p>Robert Kimball Bobby C. Lawyer Carol M. Anderson</p>
Counsel for Amicus Curiae California Public Utilities Commission	<p>Gary M. Cohen Mary F. McKenzie Barbara J. Ferguson</p>
Counsel for Amicus Curiae, Attorney General of the State of California	<p>Bill Lockyer, Attorney General Richard M. Frank, Chief Assistant Attorney General Herschel T. Elkins, Senior Assistant Attorney General Michael R. Botwin, Deputy Attorney General</p>
Counsel for Amicus Curiae, California District Attorneys Association Counsel for Amicus Curiae, Civil Justice Association of California	<p>Lawrence G. Brown, Executive Director</p> <p>Fred G. Hiestand</p>